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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,199

11/01/2006

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EXAMINER

DEMILLE, DANTON D

ART UNIT

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3771

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/588,199	<b>Applicant(s)</b> KATSUKAWA ET AL.	
	<b>Examiner</b> Danton DeMille	<b>Art Unit</b> 3771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 December 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8,10,11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8,10,11 and 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

The amendment filed 24 December 2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the amendments to the specification and claims are changing the device from a “foot water-spouting device” to a “foot water-jetting device”. Clearly, this is attempting to change the characteristics of the device. Somehow a device that spouts water is different from a device that jets water. However, the device has not changed. It is not clear what the scope of the invention is now.

Applicant is required to cancel the new matter in the reply to this Office Action.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The claims have been changed from “water-spouting” to “water-jetting”. The specification as originally filed uses the term “water-spouting”. The original specification does not appear to use the term “water-jetting”. Applicant has changed this language in an attempt to overcome the prior art however, it is not clear what the difference is between the two terms. How has the scope of the claims changed with this new language?

The claims also recite directing water “where no skin receptor exists”. It is not clear where this location is on the foot. Where is there support in the specification for a portion of the foot that has NO skin receptors?

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-4, 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rolando et al. (US 4,485,503).**

As broadly recited, Rolando teaches in figure 3, for example, a foot-front water jetting section for jetting water toward a foot-front side from sprayer 143. Water jetting section 143 jets water toward the front side of the foot. Rolando also teaches a water-jetting section direction moving mechanism by the rotating mechanism in manifold 143. A control circuit is also taught, column 2, lines 56-62, for controlling the water jetting section direction moving mechanism. The front foot water jetting section 143, is configured to continuously jet water in the wash cycle. Each nozzle of the water jetting section 143 has a width causing a part of the foot in a longitudinal direction to receive jetted water. The control circuit section is configured to control the water-jetting section direction moving mechanism by controlling the flow of water to the water-jetting section 143. The jetted water moves in a longitudinal direction of the foot from a toe side to an ankle side when a particular nozzle closest to the toes moves from a lower position to a higher position. As the jetted water moves from the toes to the ankle, the water passes over portions where skin receptors exist and portions where no skin receptor exists, to any extent it is understood where there are no skin receptors. Rolando would appear to comprehend the claimed invention.

Regarding claim 3, when the manifold 143 is horizontal the plurality of spouts are arranged in side by side width direction.

Regarding claim 4, the path of movement includes the toe.

Regarding claim 14, Rolando teaches a sole water jetting section 142.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 10, 11, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rolando et al. '503.**

Rolando teaches a water-jetting section 143 that is rotatable about a horizontal axis as the water arriving point is moved along the longitudinal direction of the foot as the water jetted from the water jetting section rotates from bottom to top. Rolando appears silent with regard to exactly how this is accomplished however a rotary shaft is well known means for rotating elements and would have been an obvious provision.

Regarding claim 11, the rotary shaft of the jetting section 143 is closer to the top tip side from that in the container body in use.

Regarding claim 15, Rolando teaches an operation cycle that includes a washing cycle, a rinsing cycle and a drying cycle. Being able to control the pressure or the amount of water used between the washing cycle and the rinsing cycle would have been obvious in order to be more economical on water use. The washing cycle would use higher pressure water to be a more

effective at washing the feet. Whereas, the rinsing cycle can save water by using less water at lower pressure.

**Claims 1, 13, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desnoyers (US 5,704,079).**

Desnoyers teaches a foot-front water jetting section 30, 42, 44 capable of jetting water toward a front side of the user's foot. A water-jetting section direction moving mechanism 50 configured to move the direction of the water jetting section along a longitudinal direction of the user's foot. The water jetting section is configured to continuously jet water having a width and causing a part of the foot in a longitudinal direction to receive jetted water as the water jetting section moves longitudinally. The water-jetting section direction moving mechanism causes the water to be moved along the longitudinal direction of the foot from a toe side to an ankle side and the jetted water passes through portions where skin receptors exist and portions where no skin receptors exist, to any extent it is known where there are no skin receptors. Desnoyers appears silent with regard to a control section however, any conventional well known control means for controlling the operation of the jetted bath tub would have been obvious to one of ordinary skill in the art in order to control the fluid powered jets.

**Claims 5-8 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rolando '503 and Desnoyers '079 as applied above and further in view of Pisani '447.**

Pisani teaches a leg water-spouting device, paragraph 44, line 4, that has controls to selectively change water pressure level, pulse rate, sweep speed, duration of massage time, temperature of the water and to be able to cease longitudinal motion in order to massage a single location, paragraph 43. Pulsing the water pressure would appear to change the flow and pressure

cyclically from zero to the desired flow and pressure. It would have been obvious to one of ordinary skill in the art to modify either Rolando or Desnoyers to control the motion of the water spouting section to be able to vary the pressure, location, period and amount as taught by Pisani in order to achieve the optimum desired therapy for a particular patient's needs.

***Response to Arguments***

Applicant's arguments with respect to claims 1-8, 10, 11, 13-17 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that Rolando's device is used for only washing the foot which washes the entire surface of the foot in the longitudinal direction. While this is true, it is also true that the water-jetting section direction moving mechanism configures to move the direction of the water jet longitudinally along the foot by rotating a particular nozzle such that it moves from a lower position that would be directing jetted water near the toes and as it moves upward it would then move the jetted water longitudinally when moving away from the toes. The areas of the foot that contain different amounts of skin receptors would also be impacted as the nozzle rotates around the foot impacting the entire surface of the foot.

Applicant argues that none of the other references teach the claimed invention however, it would appear that Desnoyers also teaches the claimed invention because it teaches foot-front water jetting section that is configured to direct water at the front side of the foot as opposed to the ankle side of the foot and longitudinally along the foot as well. The jetting section 42, 44 continuously jets water causing a part of the foot in a longitudinal direction to receive jetted water from a toe side of the front side of the foot to the ankle side of the foot. Desnoyers teaches the jetting sections also rotate about a fixed point as they translate longitudinally, paragraph at

the top of column 6. This would stimulate areas of the foot having different amounts of skin receptors.

Applicant also argues that the claimed invention can achieve unexpected results such that a complicated stimulation can be imparted to the skin receptors and that different receptors are intermittently stimulated one-by-one in turn. It is not clear how much weight can be given this argument since there is nothing claimed that would define the invention over the prior art. The claims recite a device has a water jet that moves to spray water from a front section of the foot to the ankle section of the foot. Both Rolando and Desnoyers teach such devices. Both references teach a water jetting section that moves to spray water from a front section of the foot to the ankle section of the foot. It is not clear how the claimed invention defines over the prior art. While Rolando sprays the entire foot at once it also has individual jets that move and direct spray from the front portion to the ankle portion.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,



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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974.

The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

15 March 2010

*/Danton DeMille/*

Danton DeMille  
Primary Examiner  
Art Unit 3771